

**REMARKS**

The title has been amended as required by the Examiner. The specification has been amended to obviate the objections raised by the Examiner. Claims 1, 8-10 and 16-19 have been amended to clarify the invention, and to better define the invention over the prior art. No new matter has been entered by any of the foregoing amendments.

Turning to the art rejections, and considering first the rejection of claims 1-15 under 35 USC §102 (b) as being anticipated by US Patent No. 5,404,580 to Simpson, *et al.* (hereinafter “Simpson”), as amended, independent claim 1 specifies that the collection mechanism collects information relating to a communication network protocol of the mobile communication terminal. Independent claims 8 and 9 have been amended to require that the acquisition mechanism acquires information relating to a communication network protocol. And, independent claim 10 has been amended to require acquisition of information relating to a communication network protocol. Simpson doesn’t teach this. Rather, Simpson, in col. 8, lines 48-68 cited by the Examiner, teaches a card that can store information such as volume control and language selection so that a portable electronic device can be set with a consumer’s “presets” upon insertion of the card. In other words, Simpson teaches a smart card for storing function and validation information. Thus, Simpson is fundamentally different from Applicant’s claimed invention, and cannot be said to teach independent claims 1, 8, 9 or 10 or claims 2-7 and 11-15, which depend therefrom.

The rejection of claims 16-19 under 35 USC §103(a) as being unpatentable over Simpson in view of US Patent No. 6,697,604 to Rimpelä, *et al.* (hereinafter “Rimpela”) likewise is in error. Independent claim 16, as amended, requires that the collection

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

mechanism collect information relating to a communication network protocol of the mobile communication terminal. Independent claims 17 and 18 require an acquisition mechanism for acquiring information relating to the communication network protocol. And, independent claim 19 requires acquiring information relating to a communication network protocol. As noted *supra*, Simpson doesn't teach this. Simpson teaches a smart card that stores function and validation information such as volume control and language selection so that a portable electronic device can be set with a consumer's "presets" and validation code upon insertion of the card.

Turning to rejection of claims 16-19 as obvious from Simpson in view of Rimpela independent claims 16-19 are similar to the several above discussed independent claims 1 and 8-10 in specifying acquisition of information on a communication network protocol. As noted *supra*, the primary reference Simpson incorporates a spark card and thus is fundamentally different. It is not seen that the secondary reference Rimpela supplies the missing teachings to Simpson to achieve or render obvious any of the claims 16-19.

The Examiner cites Rimpela as disclosing or acquiring information during test programs. Even assuming *arguendo* Rimpela is as the Examiner suggests, there is no motivation to combine the teachings of these two references.

In the background discussion of Simpson, it appears the "smart card" is designed for private consumers to access public telephones (or at least not personal phones). Also in the background discussion, Simpson acknowledges that cards have been used in the past for testing, but in the detailed description does not suggest implementing phone testing with the cards (col. 1, lines 15-30). Why? There is no motivation for a private consumer to test public phones. Thus, as there is no motivation to combine the references and the

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

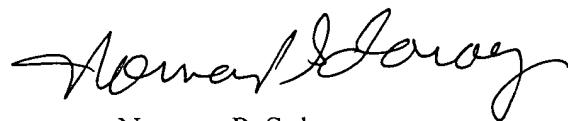
175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

references do not contain all the limitations of claims 16-19, allowance of claims 16-19 is respectfully requested.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



Norman P. Soloway  
Attorney for Applicant  
Reg. No. 24,315

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 27, 2006, at Tucson, Arizona.

BY:   
Kim Mord

NPS/TAS:kls/ps

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567